

IN THE MATTER OF LICENSE NO. 381 480
MERCHANT MARINER'S DOCUMENT NO. Z-1048141
AND ALL OTHER SEAMAN'S DOCUMENTS
Issued to: Mitchell James HUDDLESTON

DECISION OF THE COMMANDANT
UNITED STATES COAST GUARD

1940

Mitchell James HUDDLESTON

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations 137.30-1.

By order dated 26 June 1972, an Administrative Law Judge of the United States Coast Guard at New Orleans, Louisiana, suspended Appellant's seaman's documents for three months outright upon finding him guilty of negligence. The specification found proved alleges that while serving as Night Engineer on board the SS STEEL ADVOCATE under authority of the license above captioned, on or about 17 June 1972, Appellant, while the vessel was in the port of New Orleans, Louisiana, wrongfully failed to properly supervise the engineering watch by permitting the boiler to be fired with insufficient water, thereby contributing to the cause of extensive damage to the port boiler.

At the hearing, Appellant was represented by professional counsel and entered a plea of not guilty to the charge and specification.

The Investigating Officer introduced in evidence an extract from the vessel's engine room log book and the testimony of the Chief Engineer and the fireman/water-tender who was on watch at the time of the casualty.

In defense, Appellant offered in evidence his own testimony.

After the hearing, the Administrative Law Judge rendered a written decision in which he concluded that the charge and specification had been proved. He entered an order suspending all document issued to appellant for a period of three months outright.

The entire decision was served on 27 June 1972. Appeal was timely filed on 28 June 1972.

FINDINGS OF FACT

On 17 June 1972, Appellant was serving as Nigh Engineer on board the SS STEEL ADVOCATE and acting under authority of his license while the ship was in the port of New Orleans, Louisiana.

At approximately 0325 the fireman/water-tender reported to Appellant that the feed pump had tripped out and the water level in the boiler was high. Appellant reset the feed pump and then followed procedures for the correction of a high water level condition. He could see no water line in the gauge glasses and he judged that the boiler was full. The Yarway indicator, which Appellant stated was a faulty mechanism, showed high water. The D.C. heater, however, was full indicating a lack of water in the boiler. After some ten minutes of attempting to correct the supposed high water level problem, Appellant had doubts as to the actual water level in the boiler. Instead of cutting the fires, however, he attempted to feed water into the boiler. the Chief Engineer, summoned by the alarm, subsequently appeared and ordered the fires secured. Upon inspection it was discovered that a low water level had resulted in the warping and blistering of all boiler tubes. The boiler had been inspected some 10 days prior to the casualty and all equipment had been in good condition.

BASES OF APPEAL

This appeal has been taken from the order imposed by the Administrative Law Judge. It is contended that:

(1) there was insufficient evidence to warrant a finding of negligence on the part of Appellant;

(2) Appellant was justified in concluding that the difficulty was one of high water, because the Yarway indicator so read;

(3) Appellant is guilty of no more than a misjudgment to which the faulty Yarway indicator contributed; and

(4) the order of the Administrative Law Judge is overly severe in light of Appellant's prior unblemished record.

APPEARANCE: Dodd, Hirsch, Barker, Meunier, Boudreaux & Lamy, New Orleans, Louisiana.

OPINION

I

The evidence produced by the Investigating Officer is basically uncontroverted. Appellant's testimony is consistent with that of the Coast Guard witnesses. Thus, his first three grounds

for appeal may be restated as a single claim that Appellant's acts and omissions did not add up to negligence. There is no merit to this contention.

Appellant attempts to exculpate himself on the basis of the faulty operation of the Yarway indicator. He admitted, however, that he did not trust this particular instrument. At the same time he was presented with a solid indication of a low water problem, to wit, a full D.C. heater. Appellant further admitted that, when a doubt finally arose in his mind as to the actual water level in the boiler the proper course of action would have been to secure the fires. This he did not do. This amounted to a failure to take proper precautions reasonably required under the circumstances. This was not a simple choice between reasonable alternatives as would constitute a mere error of judgment, but a negligent failure to take the proper action indicated by the situation. See Commandant Appeal Decision 1755 (Ryan).

Under the circumstances it cannot be said that the finding of negligence was arbitrary and capricious. It is supported by substantial evidence of a reliable and probative nature and, thus, meets the standard for appellate review.

II

I am unable to agree with Appellant that the order of the Administrative Law Judge is overly severe. While it is true that his record is heretofore unblemished, his lack of prudence during the incident in question contributed to a substantial boiler casualty. The responsibilities of a night engineer, indeed the very reasons for his being aboard ship, include the general oversight of the engineroom machinery and personnel. He is the supervisor and has a duty to ensure that all equipment is functioning properly and that all personnel are performing their assigned tasks in a professional manner. If gauges, indicator, and unlicensed personnel could properly be relied upon, there would be no necessity for a night engineer's presence. But such is not the case, and Appellant's conduct on the night in question failed to measure up to the high standard necessarily required by the responsibilities which he shouldered. Under all of the circumstances, it cannot be said that the Administrative Law Judge abused his discretion in ordering a three month suspension.

ORDER

The order of the Administrative Law Judge dated at New Orleans, Louisiana, on 26 June 1972, is AFFIRMED.

C.R. BENDER

Admiral, U. S. Coast Guard
Commandant

Signed at Washington, D.C., this 12th day of June 1973

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